RECENT CASES

BILLS AND NOTES—GOOD FAITH—NOTICE OF DEFECTS.—PAIKA V. PERRY (1917) 114 N. E. (MASS.) 830.—M. made a contract with the plaintiffs to remodel the latter's house. The plaintiffs, who were illiterate, were induced by the fraud of M. to sign a note and mortgage, believing these instruments comprised the building contract. M. negotiated the note and mortgage, and it passed into the hands of the defendant, who knew that the mortgage was not to be given until the work on the building had been performed, and, further, that the mortgage had been given before any work had been done by M. He also knew that no work had been done for over two months after the mortgage was given, and that the plaintiffs were illiterate. *Held,* that the defendant's action in taking the note and mortgage amounted to bad faith, so that he took with notice within Rev. Laws of Mass. (1902) chap. 73.

To constitute notice of an infirmity in the instrument, or defect in the title of the person negotiating the same, the person to whom it is negotiated must have had actual knowledge of the infirmity or defect, or knowledge of such facts that his action in taking the instrument amounted to bad faith. Rev. Law of Mass. (1902) chap. 73; *Mass. Nat'l. Bank v. Snow* (1905) 187 Mass. 159; *Lancaster Bank v. Garber* (1896) 178 Pa. St. 91; *New York Mine v. Citizens' Bank* (1880) 44 Mich. 344. The court held that the defendant might take with notice within this rule without knowing the exact fraud practiced on the plaintiff, citing the following cases: *Hager v. Nat'l Bank* (1898) 105 Ga. 116; *Henry v. Sneed* (1899) 99 Mo. 407. Mere knowledge that a note was given in consideration of the executory contract of the payee which has not been performed will not deprive the indorsee of the character of a *bona fide* holder. *McKnight v. Parsons* (1907) 136 Ia. 390; *Rublee v. Davis* (1892) 33 Neb. 783; *Houston v. Keith* (1911) 100 Miss. 83. Although the notes were procured by fraud, and given before the contract was performed, the defendant would have been a *bona fide* holder in the principal case if he had not been guilty of bad faith. *New England Trust Co. v. New York Belting Co.* (1896) 166 Mass. 42; *Burnes v. Fertilizer Co.* (1914) 218 Mass. 300. This fact is brought out by the actual decision of the case. The facts would clearly seem to justify the court in holding that the defendant was guilty of bad faith.

J. I. S.

CONSTITUTIONAL LAW—IMPAIRING OBLIGATION OF CONTRACT—STATE COURT'S CONSTRUCTION OF CONTRACT NOT FOLLOWED.—DETROIT UNITED RAILWAY V. MICHIGAN (1916) 37 SUP. CT. REP. 87.—By an ordinance of Jan. 3, 1889, the city of Detroit required the A Ry. Co. to stipulate that it would sell eight tickets for twenty-five cents, to be good over the entire route within the city limits. The township of Greenfield, in 1897, granted